

APPROVED

## CITY OF BREMERTON

### PLANNING COMMISSION MINUTES OF REGULAR MEETING September 20, 2016

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#### **CALL TO ORDER:**

Vice Chair Nethery called the regular meeting of the Bremerton Planning Commission to order at 5:30 p.m.

#### **ROLL CALL**

##### **Commissioners Present**

Vice Chair Nethery  
Commissioner Goodnow (arrived at 5:35)  
Commissioner Jones  
Commissioner Nerf  
Commissioner Strube  
Commissioner Tift

##### **Staff Present**

Andrea Spencer, Director, Department of Community Development  
Allison Satter, Senior Planner, Department of Community Development  
Kelli Lambert, Planner, Department of Community Development  
Kylie Purves, Assistant City Attorney

##### **Commissioners Absent**

Chair Wofford (excused)

#### ***Quorum Certified***

#### **APPROVAL OF AGENDA**

COMMISSIONER TIFT MOVED TO APPROVE THE AGENDA AS PRESENTED. COMMISSIONER STRUBE SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

#### **APPROVAL OF MINUTES**

COMMISSIONER TIFT MOVED TO APPROVE THE MINUTES OF JULY 20, 2016 AS CORRECTED. COMMISSIONER STRUBE SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF 5-0, WITH COMMISSIONER JONES ABSTAINING. *(Note: Commissioner Goodnow was not present to vote on the minutes.)*

#### **PUBLIC MEETING**

**Call to the Public** (public comments on any item not on the agenda)

Vice-Chair Nethery asked if there were any comments from citizens. Seeing none, he closed the public portion of the meeting.

**Public Hearing: Amendments to Bremerton Municipal Sign Code Regulations**

**Ms. Satter** explained that the subject of the hearing is the proposed amendments related to the sign provision in the Bremerton Municipal Code (BMC). She reminded the Commission of a recent Supreme Court decision (Reed vs. the Town of Gilbert) in which a church sued the Town of Gilbert, Arizona, because it felt its free-speech sign was being regulated differently than other free-speech signs. The Town of Gilbert could not provide justification for this differentiation and the Supreme Court ruled its sign code was not content neutral and consistent. The intent of the proposed amendments is to make the City's sign code provisions consistent with this most recent court ruling. **Ms. Satter** advised that the Comprehensive Plan is a blueprint document that outlines how Bremerton should develop, and it contains a number of policies and goals that help support the City's vision for the future. It is important to consider these goals and policies when reviewing Development Code Amendments, to ensure the two documents are consistent. She specifically reviewed the following goals and policies:

- **Goal LU1:** Plan for Bremerton's population and employment growth.
- **Policy LU1(A):** Implement design guidelines that complement the designated purpose and scale of the neighborhoods.
- **Policy LU2(E):** Promote exposure of City businesses and community events by signage that is proportional to the intensity of the land-use designation, while recognizing the existing character of the neighborhood.
- **Policy LU1-Cen(A):** Adopt sign standards that reflect pedestrian scale.
- **Policy LU2(D):** Provide development incentives and flexibility within the regulations to encourage desirable design elements.
- **Goal ED2:** Revitalize Bremerton's commercial district by upgrading and enhancing the aesthetic quality of the neighborhood.
- **Policy ED2(A):** Encourage upgrades and rehabilitation of existing commercial development through a wide variety of means.
- **Policy ED2(B):** Ensure that new commercial development promotes street-level activation.

**Ms. Satter** explained that while the Comprehensive Plan contains goals and policies, the zoning code is a regulatory document. She referred to BMC 20.52.010, which outlines the intent of the sign code provisions and advised that staff is not proposing any changes to this section at this time. The objectives of the sign code are to:

- Recognize the importance of signs in the community.
- Establish regulations to protect the public from damage or injury attributable to distractions and obstructions caused by poorly designated or improperly located signs.
- Stabilize or enhance the overall appearance of the community and protect property values.
- Regulate the number, size, placement and physical characteristics of signs and sign structures.
- Not restrict, limit or control the content of any sign message.

For the record, **Ms. Satter** reviewed the current provisions for the Commission's information to demonstrate consistency throughout the sign code as follows:

- Size requirements for building signs are consistent throughout all commercial zones in the City. Building signs in the commercial zone are allowed to be up to 2 times the lineal footage up to a maximum of 100 square feet or 10% of the building's façade.
- Freestanding signs are regulated differently based on zoning. Larger freestanding signs are allowed in the Freeway Corridor and Industrial zones, which are located near highways and have higher speed roads and less foot traffic. The Downtown and District Centers are high-density urban areas that tend to be walkable with slower traffic, and the larger signs may not be as appropriate. The standard sign size allowed in the Downtown and District Center zones is 60 square feet and up to 8 feet tall. There is slower traffic and more foot traffic in the Neighborhood Center, where the standard sign size allowed is 60 square feet with a maximum height of 6 feet.

**Ms. Satter** referred to Attachment A of the Staff Report, which outlines the proposed amendments. She reviewed each of the amendments as follows:

- **BMC 20.42 Definitions.** As new technology comes into play, portable signs on vehicles are becoming more prevalent, and the intent of this proposed amendment is to regulate them as “portable signs.” As proposed the definition of “portable sign” would be changed to include this sign type.
- **BMC 20.52.040 Exempt Signs.** This change is directly related to the Supreme Court decision that code provisions for real estate and temporary signage must be more general. Rather than saying that “real estate signs for sale of single-family dwelling units,” are exempt, Item J would be changed to say, “signs displayed on a lot with a property for sale or rent” are exempt. In addition, Item K would also be reworded to say, “signs displayed on a lot where construction is taking place.”
- **BMC 20.52.050 Prohibited Signs.** The provision relative to readerboard signs would be amended to allow copy to change every 8 seconds rather than the current 2 seconds. This change would be consistent with Kitsap County’s current requirement. She commented that the Commission could choose to recommend Commissioner Tift’s suggestion that copy be allowed to change every 2 but not greater than 8 seconds. However, they should keep in mind that the only time the City would be able to do code enforcement is when someone is doing something shorter than 2 seconds. She recommended that 3 or 4 should be the quickest change allowed. **Commissioner Goodnow** noted that there are signs that have a slow-moving background, which are easier on the eye and do not seem to be as distracting. He asked how the sign code would address these sign types. **Ms. Satter** answered that, as currently written, anything flashing or moving is prohibited. The intent is to create less distraction, and the provisions would be consistent for all readerboard signs in the City.
- **BMC 20.52.070 Sign Placement Requirements.** The language in this provision would be changed from “temporary signs advertising a public event which meets City approval,” to “temporary banner signs erected by the City.” The intent is for the language to be more generalized.
- **BMC 20.52.085 Political Signs.** This provision was particularly impacted by the Supreme Court’s decision. The proposed amendment would rename the entire section “Noncommercial Speech Signs.” The amendment would also remove provisions that require the removal of signs after an event. The intent is to be consistent for all noncommercial-speech signs.
- **BMC 20.52.090 General Sign Regulations.** Two additional provisions were added to this section. First, provisions for illumination were added, including nighttime adjustments. As LED lighting becomes more prevalent, it is important to have some provision to deal with undue brightness. Secondly, she recalled that the Commission previously discussed concern that removing the timeline for political signs could result in numerous signs that are old and in disrepair. A provision was added that requires all signs to remain in good repair. Good repair is defined as what can be seen from the property line and applies to both permanent and temporary signage. A permit may be required, depending on the scope of the needed work.
- **BMC 20.52.100 Commercial District Sign Regulations.** In this section, “shopping center” was renamed to “large multiple occupant development” to be more generalized and to be consistent with other portions of the code. In addition, the co-op sign provisions were reworked. Previously, properties along Wheaton and Kitsap Way that do not have street frontage were not allowed to have off-premise signs. The co-op sign provisions that were adopted in 2014 allowed properties that are one parcel back from Wheaton and Kitsap Way an opportunity for signage, but only if there is a transfer of development rights, meaning that there could not be a freestanding sign on the property and on Kitsap and Wheaton Ways. As proposed, the amendments would extend the provision to deeper parcels along Wheaton and Kitsap Ways, but it would also reemphasize that a transfer of development rights is required. This provision also encourages the removal of multiple signs.
- **BMC 20.52.110 Auto Dealership Sign Regulations.** This provision cannot be considered content neutral and should be removed. However, it is important not to penalize auto dealerships, either. Because auto dealerships are only allowed in the Freeway Corridor Zones, staff is recommended that Figure 20.52(a) be revised to allow all freestanding signs in the Freeway Corridor Zone to be a maximum of 150 square feet in size. Currently, sign size in this zone is limited to 100 square feet. Questions were raised at the last meeting about the LED sign on SR-3, and the permit that was submitted in January identifies the sign size as 106 square feet. It was noted that the City only measures the areas where there is wording.
- **BMC 20.52.120 Residential District Sign Regulations.** The provision that limited signs in multifamily development to just 4 square feet was removed to be consistent with the sign area allowed in the residential zone.
- **BMC 20.52.180 Nonconforming Signs.** At the recommendation of the Commission, the amortization requirement was removed in 2014. The code required that nonconforming signs be brought up to code consistency based on a threshold of \$50,000 of improvements. However, the provision still only applies to on-premise signs. The intent

of the proposed amendment is to provide consistency between the on-premise and off-premise sign provisions. In addition, a portion of this section was relocated to Subsection iii for ease of reading. Examples of nonconforming signs that have been recently replaced were provided.

- **Figure 20.52(A) Zone Specific Size and Design Requirements.** In this amendment, the figure was revised to consolidate where appropriate, such as the centers standards. The Puget Sound Industrial Center-Bremerton was also added to be consistent with the subarea plan. The footnotes were revised to allow commercial signs along Wheaton and Kitsap Ways to increase their height to 15 feet, which is consistent with Kitsap County's rules. However, the phrase, "on state highway routes of Wheaton and Kitsap Ways" was added to clarify that the provisions do not apply to Lower Wheaton Way or the Manette area.

**Ms. Satter** advised that **Chair Wofford** provided a recommendation via email for continued education on why the update is required throughout the next process. Staff believes that continued educational outreach is important, as well. However, it is also important to acknowledge that all jurisdictions are in the same situation and must update their sign code regulations. **Commissioner Nerf** identified two minor typographical errors in both attachments, which have been corrected in the documents before the Commission for action.

**Ms. Satter** referred to a letter from Priscilla Bailey. **Ms. Bailey** voiced concern about political signs that have no timeframe for removal. **Ms. Satter** explained that the City needs to be consistent with the multiple court cases that exist. The options to consider are either no timeframe, as currently proposed, or require a timeframe for all noncommercial speech signs, which would require a permit and additional staff time to manage. **Ms. Bailey** was also concerned that business owners would not know how to put their readerboard signs to "night time" setting to reduce brightness. **Ms. Satter** explained that undue brightness extends beyond the property line and could be a driving distraction and/or hazard. She recommended the condition remain, as proposed. **Ms. Bailey** commended the City on the proposed revisions to the co-op sign provisions, particularly allowing a 15-foot height on Wheaton and Kitsap Ways and increasing the rate of copy change from 2 to 8 seconds. She also indicated she was happy with the proposed new maintenance requirement, but wanted to see something more for abandoned signs. **Ms. Satter** reviewed that if a property experiences redevelopment over \$50,000, the nonconforming signs would have to be removed or conform. However, the code is minimal on abandoned signs for properties not being currently utilized. Currently, only signs that are dangerous are required to be removed.

**Ms. Satter** reviewed that following the public hearing and Planning Commission deliberations, the Commission can recommend approval of the amendments as proposed, recommend approval of the amendments with amending motions, or continue the hearing to address additional items.

**Vice Chair Nethery** opened the public hearing.

**Jeff Coughlin, Bremerton**, asked if the proposed new maintenance provision would apply to existing illuminated signs that have burned-out light bulbs. If not, he asked the Commission to consider including it in the proposed amendment. **Ms. Satter** answered that, as written, the provision would not address signs with burned-out lights. However, the Commission could add language to require replacement of illumination as it ceases.

No one else indicated a desire to participate, and the public portion of the hearing was closed by **Vice Chair Nethery**.

**Commissioner Tift** agreed that the maintenance provision should also address illumination. He also requested additional clarification on the current provision that limits the size of building signs. **Ms. Satter** referred to BMC 20.52.100(B)(2), which reads, "A building sign attached individually shall not exceed 100 square feet in area except it may exceed the maximum if the total area is less than 10% of the total building façade area of the side with the signage." She said the intent is to limit the size of signs on large buildings with long facades, but also allow the signs to be proportional to the size of the facade. **Commissioner Tift** summarized that the sign could exceed 100 square feet if the façade was greater than 1,000 lineal feet. **Director Spencer** said each sign would be allowed to be proportional to each space, and the notion is that every tenant would be allowed a prominent sign on the building.

**Vice Chair Nethery** said he shares **Ms. Bailey's** concern about removing the timeline for when political signs must be removed. While he understands that the sign code must be content neutral, he is bothered about trying to be so politically

correct that it no longer makes sense. It is clear that elections are temporary events, so political signs could be classified as temporary signs. **Ms. Satter** explained that the Supreme Court's decision was that political signs are considered noncommercial-speech signs, and cities cannot make a differentiation between ideological signs, political signs, event signs, etc. **Assistant City Attorney Purves** agreed and emphasized that the content of the sign cannot be the basis for the regulation. **Commissioner Nerf** pointed out that some political signs, such as signs that support gun rights, are not tied to an election. It would be very difficult to put a time limit on one type of political sign and not another.

**Commissioner Goodnow** said he understands the size limitations for noncommercial-speech signs on private residential properties, but he questioned how the sign code would apply to signs in the right-of-way. **Ms. Satter** answered that the City's sign code applies to private properties. The Public Works Department's policies regulate signs within the streets and rights-of-way. **Commissioner Goodnow** summarized that the proposed amendments would only impact signs on private properties and would not apply to political signs that are placed all up and down the public rights-of-way.

**Commissioner Goodnow** asked if it would be possible to establish a threshold by which more permanent signs would be required to obtain permits. **Ms. Satter** agreed that there could be a provision for a different timeline, but it would have to be based on materials and not content. **Director Spencer** emphasized that this approach would require permitting, which would result in additional staff cost. Given the current staffing level, having the ability to issue sign permits for single-family residential homes would become a significant challenge for the department. **Assistant City Attorney Purves** also cautioned that there are so many different sign materials, that this approach would be difficult to regulate. In addition to requiring additional staff time to implement, codes that are content neutral based on sign material are very long because they try to incorporate any material that a sign might be made of.

**Commissioner Tift** referred to the large 4' x 8' plywood sign on Kitsap Way just past the Oyster Bay Inn that can be seen from both directions. He asked if this sign, which is on private property, could remain in place indefinitely or until the next election. He also asked who would be responsible for its removal if it becomes dilapidated. **Ms. Satter** said the temporary sign code includes a provision that requires the removal of noncommercial-speech or banner signs that can be seen from the property line if there is evidence of deterioration or the need of general maintenance. **Commissioner Goodnow** asked how the City would enforce this provision, and **Ms. Satter** answered that enforcement would be complaint based. **Commissioner Goodnow** asked if complaint-based enforcement could also be used to implement a time limit for signs on private properties. **Assistant City Attorney Purves** cautioned that a political sign cannot be regulated any differently than other types of noncommercial-speech signs. Each property owner is given a certain amount of sign space to use on their personal property based on the zoning district, the City cannot regulate the signs based on what they say.

**Commissioner Nerf** agreed with Mr. Coughlin's recommendation that a provision be added to address defective lighting on signs. Perhaps language to the effect of "failing to convey the message." **Ms. Satter** agreed it would be appropriate to add additional language to BMC 20.52.090(G)(2).

**Ms. Satter** requested additional input from the Commission about the provision related to the timeframe for changing the copy on readerboard signs. **Commissioner Tift** said the intent of his previous suggestion was to provide more latitude to business owners. However, he commented that a 2-second timeline could almost appear to be a strobe light. **Ms. Satter** pointed out that Kitsap County has an 8-second timeframe. The Commission indicated support for staff's proposed timeframe.

**COMMISSIONER TIFT MOVED TO RECOMMEND THE CITY COUNCIL ADOPT THE TEXT AMENDMENTS TO BREMERTON MUNICIPAL CODE CHAPTERS 20.52 AND 20.42 AS DETAILED IN ATTACHMENT A, BASED ON THE STAFF REPORT AND THE FINDINGS AND CONCLUSIONS PRESENTED IN ATTACHMENT B. COMMISSIONER GOODNOW SECONDED THE MOTION.**

**COMMISSIONER NERF MOVED TO AMEND THE MAIN MOTION TO DIRECT STAFF TO WORK ON LANGUAGE IN THE MAINTENANCE SECTION (BMC 20.52.090(G)(2) TO INCLUDE PROVISIONS ABOUT THE SIGNAGE "FAILING TO CONVEY THE MESSAGE." COMMISSIONER STRUBE SECONDED THE MOTION, WHICH CARRIED 5-1, WITH COMMISSIONER JONES VOTING IN OPPOSITION.**

**THE MAIN MOTION, AS AMENDED, WAS APPROVED BY A VOTE OF 5-0, WITH COMMISSIONER JONES ABSTAINING.**

## **BUSINESS MEETING**

### **Chair Report**

Vice Chair Nethery welcomed new Commissioner Deanna Jones.

### **Director Report**

Director Spencer also welcomed Commissioner Jones, noting that the Commission is fully appointed.

Director Spencer reported that, since the Commission's July meeting, the appeal period of the Comprehensive Plan was completed, and no appeals were filed. Therefore, the Comprehensive Plan stands as adopted.

Director Spencer reported that staff is currently working with the Department of Ecology (DOE) on the Shoreline Master Program (SMP) amendments. Following the local process, the document was elevated to the DOE for review and a public process. At a recent Director's Conference, she learned that the DOE is working on amendments that will coordinate the two process in conjunction with each other. While this is great news, it does not apply to the City's current update. Ms. Satter reported that the DOE received four comments relative to the SMP. Two were positive in nature, including one from the Navy asking the City to verify that there was no federal land on the SMP. Other comments were received from the Chico Creek Task Force and the Suquamish Tribe. The DOE is waiting for the City to reply to the comments, and then they will determine whether or not a public hearing is needed.

Director Spencer announced that the City is currently in litigation with the County, as the City filed an appeal of the County's Comprehensive Plan Update. The appeal is primarily related to Growth Management Act issues pertaining annexations and the City's expectation of an associated Urban Growth Area next to the City.

Director Spencer advised that, at their October meeting, the Commission will be working with Public Works staff relative to incorporating low-impact development provisions into the development regulations and citywide.

### **Old Business**

There was no old business to come before the Commission.

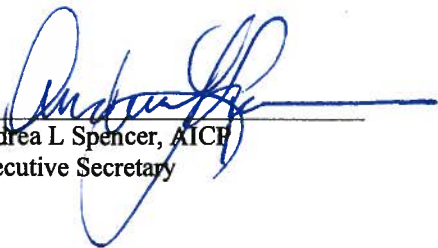
### **New Business**


There was no new business.

## **ADJOURNMENT**

The meeting was adjourned at 6:40 p.m.

Respectively Submitted by:

  
Andrea L. Spencer, AICP  
Executive Secretary

  
Nick Wofford, Chair  
Planning Commission

Approved